IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 80 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE M.R. SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PRAHLADJI MADHAVJI THAKOR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 80 of 2004

MR HARIN P RAVAL for Petitioner No. 1

Mr. Sood, AGP for Respondent No. 1-2

Mr. JS Barot for MR HS MUNSHAW

for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE M.R. SHAH

Date of decision: 28/07/2004

ORAL JUDGEMENT

Rule. Mr. Sood, learned AGP waives service of Rule for respondents No. 1 and 2. With the consent of the parties the matter is taken up for final hearing today.

2. WHat is challenged in the present Special Civil Application is the order passed by the Additional Development Commissioner, State of Gujarat dated 30th December 2003 in Appeal No. 100 of 2003 in dismissing the appeal and confirming the order passed by the District Development Officer, AHmedabad dated 3.11.2003 in removing the petitioner as Sarpanch of Shilaj Gram Panchayat.

3. Shri Harin P. Raval, learned advocate appearing for the petitioner has submitted that hearing of the aforesaidi appeal was kept on 18.11.2003 and on that date the hearing had taken place only for the purpose of hearing the stay application and no notice was given for hearing of the appeal finally, and not only that but even the learned advocate appearing for the petitioner was not informed that the matter is to be decided finally. For that purpose, he has relied upon the averments made in Para 15.13 of the present petition. If the hearing was fixed only for the purpose of interim relief and the petitioner and/or the advocates were not informed that the matter is to be decided and disposed of finally it is against the principles of natural justice. Under the circumstances, without going into the merits of the case, the matter is remanded to the learned Additional Development Commissioner for deciding the Appeal No. 100 of 2003 afresh on merits and in accordance with law without in any way being influenced by the fact that the order dated 30th December 2003 is quashed and set aside by this Court. The Appeal No. 100 of 2003 is restored. It is also clarified that now the matter shall be decided finally by the Additional Development Commissioner on the next date fo hearing, on remand. The Additional Development Commissioner is directed to decide and dispose of the appeal on remand within a period of six weeks from the date of receipt of this order. The ad-interim order granted by the Additional Development Commisisoner on 11.11.2003 shall stand revived till final disposal of the appeal by him. The copy of the communication dated 11.11.2003 for hearing of the stay application produced before this Court by the learned advocate for the petitioner is taken on record. THe petition is allowed accordingly. Rule is made absolute with no order as to costs. Direct service is permitted.

rmr. [M.R. Shah, J.]